
Appeal Decision

Site visit made on 29 September 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/U1430/W/20/3253981

45 Sea Road, Bexhill on Sea, East Sussex TN40 1JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Alison Fowler against the decision of Rother District Council.
 - The application Ref RR/2019/2192/P, dated 19 September 2019, was refused by notice dated 13 March 2020.
 - The development proposed is a dropped kerb and the formation of hardstanding to comprise of 3no parking spaces and associated landscaping.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the proposals on the character and appearance of the Bexhill Town Centre Conservation Area.
 - The effect of the proposals on access to the property.
 - The effect of the proposals on public parking on Sea Road.

Reasons

Preliminary Findings

3. The description of the proposal on the Application Form was '*drop kerb to front of property, to create off-road parking*' and the Council used the same description in the Refusal Notice. The application was accompanied by a location plan and a proposed block plan, neither of which gave more than the location of the dropped kerb relative to the frontage and an indication of the layout of 3 vehicle spaces.
4. The appellant has expressed the view that the Council refused permission for more development than was applied for but agrees that subsequent to the submission of the application, the block-paving hardstanding was laid, and that has been commented on by interested parties. The appellant has made clear that, notwithstanding a statement that other possible options may be available, the Grounds of Appeal are based on permission being required and requests that the paving forms part of the appeal proposals. Additional drawings of the proposal, P101 and P102 have been supplied together with E101 and E102

showing the pre-existing situation, and these latter appear to conform with the photographs supplied.

5. The appellant refers to the 'Wheatcroft Principles' in requesting that these drawings and the work that is depicted should form the basis of the appeal decision and suggests an amendment to the description to match a later application dated 5 June 2020.
6. Having mind to the content of representation from interested parties, Bexhill Heritage included, there would be no prejudice to any interests through determining the Appeal based on the amended description as set out in the last bullet point of the heading, and the later more detailed drawings. In addition, the retrospective nature of much of the work allowed a full appraisal to be made at the unaccompanied site inspection.

Character and Appearance

7. Policy OSS4 of the Rother District Local Plan Core Strategy contains general development considerations, including (iii) respecting and not detracting from the character and appearance of the locality. Policy EN2 on the historic environment requires at criterion (ii) that development takes opportunities to improve areas of poor visual character or with poor townscape qualities while criteria (i) and (ii) of Policy EN3 set out how development is to achieve high design quality. Development and Site Allocations Local Plan Policy DHG12 on accesses and drives requires at criterion (ii) that they maintain the character of the locality.
8. The Bexhill Town Centre Conservation Area Appraisal notes at 3.8 that Sea Road has a greater variety of building types than the streets referred to earlier in the document, the building form on the east side being described as irregular.
9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
10. Paragraph 124 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
11. The paving had already been put in place by the time of the site inspection, and the pre-existing situation can only be discerned from the E-prefix drawings and photographs. It is apparent that the frontage did not benefit from the more traditional or original rendered balustrade-style wall seen on properties to the west side of the road, but that the land between the footway and the building was laid out as planted and hard-landscaped areas with a clear path to the north side.
12. That arrangement would not have been out of character with that of the other similar properties between the church and the flats at the south-east corner, since there is a mix of open frontage and low walls. There was planting in evidence and particularly along parts of the frontage behind the wall. Whilst not a positive feature of the conservation area, it does not appear to have been

a serious detractor, and that finding of a neutral impact sits well with the lack of reference in the Conservation Area Appraisal.

13. The works carried out has opened the frontage, retaining only the piers at either end, and has brought block paving to the back of the footway save for a drainage channel. The opening-up of the frontage has removed the positive delineation between public and private land and has eroded the townscape quality of this part of the conservation area. The presence of closely parked vehicles across much of the frontage has visually divorced the building from the road and has severely reduced the ability to soften the effect by planting, whether in the ground or containers, even if secured by condition.
14. The work has caused harm to the character and appearance of the conservation area, and although it is acknowledged that there is no requirement to 'enhance', and that the 'South Lakeland' judgment alluded-to by the appellant requires only that there be no harm in order to preserve, the case here is that harm has been caused and hence the character and appearance of the designated heritage asset has not been preserved.
15. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies, and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This balance will be considered after looking at the following main issues.

Access

16. The appellant has queried the applicability of some of the policies cited by the Council; TR3 being for apparently larger new development while the reference to highway safety in Policy DHG12 (i) has not been carried forward as a reason for refusal. Policy OSS4 is relevant as the cited criterion (i) seeks the provision of an appropriate means of access for disabled users. In any event, good design that meets the needs of occupiers is part of national policy.
17. The arrangement seen at the site inspection was of 3 vehicles parked alongside each other across the paved area, with a van to the northern space relatively close to a car in the middle. Whatever the disputed dimensions, the evidence is of the need for a closer parking gap than would be reasonable in a shared, multi-user provision. Such inconvenience of access to a car door might be acceptable within a single household, but within a block of flats could cause unnecessary friction between households and is an indication of poor design and an attempt to provide too many spaces.

Parking Provision

18. Reference has been made to the fact that a public, permit-holders and doctors' controlled parking bay extends across the frontage and when in use would prevent vehicular access, although this is not a reason for refusal. There appears some anomalies in this area since the neighbouring dropped kerb and single off-road space at number 47 is protected by double yellow lines between parking bays, whereas the access to the surgery to the north is not protected at all, neither yellow lines nor a 'dog-bone'. Whether or not the public are presently deterred from using the bay outside the appeal site for fear of causing an obstruction is a matter for conjecture and need not be considered.

19. Be that as it may, to ensure access to the off-road parking at the appeal site would require a new traffic order and the appellant would need to pay for that. There is no indication however that, were planning permission to be granted, this would be a problem.

Heritage Balance and Conclusions

20. There does not appear to be a risk of the property falling out of residential use for lack of the 3 spaces provided, and that use should be regarded as the optimum viable one. There are, no doubt, private benefits to being able to park on the property rather than find space on the road when required, and ready surveillance would likely reduce crime which is a public benefit in the use of resources. However, the proposal would result in the loss of a public parking space close to shops and facilities such as the surgery.
21. In the balance required in paragraph 196 of the Framework, the conclusion is that the harm to the character and appearance of the Bexhill Town Centre Conservation Area is not outweighed by public benefits and the cramped layout appears to jeopardise the convenient use of the access, and is an indication of poor design. The proposal would be contrary to the Development Plan policies previously cited, along with the heritage and design aims of national policy and would fail the statutory test in section 72(1) of the 1990 Act. For the reasons given above I conclude that the appeal should be dismissed.

S J Papworth

INSPECTOR